

REMARKS

Reconsideration of this application is respectfully requested. Claims 10, 16-19, 21, and 25 have been canceled without prejudice or disclaimer. New claims 37-46 have been added. Support for the new claims is found throughout the specification, for example, at pages 19-24, and in the original claims (e.g., claims 29-31).

Claims 1 and 26 have been amended to clarify that the sample to be assayed is obtained from street debris materials obtained from a street sweeper machine. Support for this amendment is found in Example 1, page 24 of the specification.

Claim 7 has been amended to address an objection raised by the Examiner. Specifically, Applicants' prior amendment (mailed May 4th, 2007) failed to properly mark up amended claim 7 to reflect a change the dependency of claim 7 from claim 6 to claim 1 (*see* Office Action, page 3). These changes have been incorporated into the present claim amendments.

Claim 15 has been amended to incorporate the subject matter of canceled claim 16.

Upon entry of this amendment, claims 1, 3-9, 11-15, 20, 22-24, 26-29, and 32-46 will be pending and under consideration. No new matter has been added.

Claim Objections

According to the Examiner, claims 4, 17-21, 29, and 32-36 are objected to as depending from a rejected base claim (*see* Office Action, page 10). The objection as to claims 4 and 17-21 is addressed in view of the present amendments and remarks presented below.

However, claim 29 is an independent claim which was not rejected in the outstanding Office Action, and claims 32-36 depend directly or indirectly from claim 29. Therefore, this objection should be withdrawn, and Applicants respectfully request clarification of the status of claims 29 and 32-36.

Anticipation Rejections

Claims 1, 3, 11-16, and 22-27 remain rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Pat. No. 6,613,571 ("Cordery"). The Examiner contends that Cordery applies to each of the claims as summarized in the table below:

Pending Claim	Examiner contends Cordery teaches
1	assaying incoming mail for presence of biological materials
3, 11	assaying incoming mail for presence of biological materials; mail is collected from mailboxes on streets, therefore collections is from a route undertaken by a street sweeper machine and is a predetermined traceable route
12-16	Collecting mail in a predetermined pattern brought to a central location, and detecting hazardous materials by taking air samples and testing for hazards
22-24	Collecting mail in a predetermined pattern brought to a central location, and detecting hazardous materials by taking air samples and testing for hazards
25-27	Detecting hazards in mail using incoming mail receptacles, detecting the presence of mail piece collecting air samples, and testing the air samples for hazards by PCR or UV detection

Claims 16, and 25 have been canceled, thereby rendering the rejection moot as to these claims.

The pending claims are not anticipated directly or inherently by the cited prior art. In order for a reference to anticipate claims under § 102, the reference must disclose each and every limitation of the claimed invention, and must be an embodiment of the claimed invention. *Dana Corp. v. Am. Axle & Mfg., Inc.*, 61 USPQ2d 1609 (Fed. Cir. 2002). The teaching must clearly disclose the invention with a certain degree of precision, without the need for picking and choosing components. *Ex parte Westphal*, 223 USPQ 630 (Bd. Pat. App. 1983). Additionally, "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is *necessarily present* in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by

probabilities or possibilities. The mere fact that a certain thing *may result* from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745, (Fed. Cir. 1999).

Applicants respectfully submit that Cordery fails to anticipate the present claims because Cordery fails to teach each and every limitation of the claimed invention, either expressly or inherently.

Claims 1 and 26 have been amended to call for the detection of hazardous materials in a sample derived from street debris collected by a street sweeper from a sample domain. The sample domain is a route undertaken by a street sweeper machine that is conducting a pre-existing street sweeping operation, otherwise unrelated to surveillance. Therefore, required elements of the independent claims, including new claim 37, include at least i) a sample derived from street debris, and ii) a sample domain that is a route undertaken by a street sweeper machine that is conducting a pre-existing street sweeping operation. Applicants submit that at least these claim features are neither expressly nor inherently disclosed in Cordery.

First, Cordery fails to expressly disclose a sample obtained from street debris. Thus, there is no express disclosure of street debris in the cited prior art. Cordery discloses a system for assaying mail (not street debris) for the presence of biological materials. Typically, a mail carrier *delivers* mail to particular locations, and quite often, *collects* no incoming mail from individual post boxes along the route. Along the mail route, there may be no collection points (if there are no mailboxes), a single collection point, a few collection points, or many collection points. Accordingly, a mail carrier might (or might not) collect mail at locations along a mail collection route. Therefore, Cordery also does not inherently disclose the claimed sample because a sample obtained from “street debris” (much less *any* sample type) is not “necessarily present.” Cordery also does not disclose or suggest continuous debris collection, as called for in claim 37.

Second, the Examiner asserts that a street sweeper route “would encompass any street, which would also encompass a mail route even in rural areas” (*see* Office Action, page 6). The Examiner appears to conflate “predetermined routes” and sample collection *from* such

routes. Mail collection along a mail route (if incoming mail is present, which Applicants stated above is not always the case), and street debris collection along a route undertaken by a street sweeper machine conducting a pre-existing street sweeping operation, are distinguishable. Any mail present along a mail carrier's route will be collected from particular locations (e.g., mailboxes). Point-to-point mail collection is fundamentally different than a sample derived from street debris that is continuously collected (as called for in claim 37).

Finally, Cordery describes mail collection from mailboxes that are "preferably hermetically sealed...and completely opaque" (*see* Cordery, col. 5, lines 7-9). The pending claims call for the continuous street debris collection by a street sweeper along an open route in which the debris has been exposed to the environment and the elements (and not mail from a hermetically sealed box as taught by Cordery). The collection method of the present claims does not involve collection from particular point(s) (mailboxes), or samples obtained from discrete "hermetically sealed" locations. Thus, the collection of a street debris sample from a street sweeping machine conducting a pre-existing street sweeping operation does not "necessarily flow" from the possible collection of mail (sample) from particular points, as disclosed in Cordery.

Therefore, street debris sample collection is not expressly disclosed by, or necessarily present in, Cordery, and the rejection should be withdrawn.

Claims 1, 3, 5-16, and 22-27 remain rejected under 35 U.S.C. § 102(a) as anticipated by Hoffmaster, et al., *Emerging Inf. Diseases*, 8(10):1-12 (2002) ("Hoffmaster"). The Examiner contends that Hoffmaster applies to each of the claims as summarized in the table below:

Pending Claim	Examiner contends Hoffmaster teaches
1, 3, 6-11, 22-24	Evaluation and validation of RT-PCR for identification of <i>Bacillus anthracis</i> by elution of swab samples including vacuum cleaner debris
5	Real time PCR to detect <i>B. anthracis</i>
12-16	Testing environmental samples by PCR to detect <i>B. anthracis</i> by comparing the level to a normal level relative to an earlier assay
25-27	Testing environmental samples with PCR, using swab specimens eluted in an aqueous solution, for <i>B. anthracis</i> detection and result reporting.

Claims 10, 16, and 25 have been canceled, thereby rendering the rejection moot as to these claims.

The present claims call for assaying a sample derived from street debris that is collected from a sample domain which is a route undertaken by a street sweeper machine conducting a pre-existing street sweeping operation. Hoffmaster does not expressly disclose samples derived from street debris collected continuously along a route undertaken by a street sweeper machine. Furthermore, although Hoffmaster discloses “vacuum debris” (see Hoffmaster, page 5), street debris samples derived from a route undertaken by a street sweeper machine (as called for in the present claims) is not *necessarily present* in the subject matter disclosed in Hoffmaster. Thus, Hoffmaster also does not inherently disclose elements of the present claims. Therefore, Applicants respectfully request the claim rejections over Hoffmaster be withdrawn.

CONCLUSION

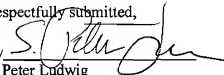
In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining that the Examiner believes can be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By


S. Peter Ludwig

Registration No.: 25,351
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant